



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I

October 11, 2013

To:

Hon. Ellen R. Brostrom
Milwaukee County Circuit Court
821 W. State Street
Milwaukee, WI 53233

Gregory M. Weber
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

John Barrett, Clerk
Milwaukee County Circuit Court
821 W. State Street, Room 114
Milwaukee, WI 53233

John Francis Sanford, #44280
Redgranite Correctional Inst.
P.O. Box 925
Redgranite, WI 54970-0925

Karen A. Loebel
Asst. District Attorney
821 W. State Street
Milwaukee, WI 53233

Hannah Blair Schieber
Assistant State Public Defender
735 N. Water Street, Ste. 912
Milwaukee, WI 53202-4105

You are hereby notified that the Court has entered the following opinion and order:

2013AP723-CRNM

State of Wisconsin v. John Francis Sanford
(L.C. #2011CF5500)

Before Curley, P.J.

John Francis Sanford appeals from a judgment of conviction, entered upon his guilty pleas, for one count of child abuse (intentionally causing harm) and one count of false imprisonment, in violation of WIS. STAT. §§ 948.03(2)(b) & 940.30 (2011-12).¹ Appellate

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

counsel, Assistant State Public Defender Hannah B. Schieber, has filed a no-merit report pursuant to *Anders v. California*, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32, to which Sanford has not responded. We independently reviewed the record and the no-merit report. On September 13, 2013, we directed counsel to file a supplemental no-merit report addressing a DNA surcharge issue. We indicated that in the alternative, Attorney Schieber could file a motion seeking to dismiss the no-merit appeal and to extend the deadline for filing a postconviction motion.

On October 9, 2013, Attorney Schieber filed a motion to dismiss the no-merit appeal and extend the deadline for filing a postconviction motion. The motion states that Attorney Schieber “has considered this [DNA surcharge] issue and had further consultation with Mr. Sanford. Undersigned counsel now believes that at this point this issue has arguable merit, and has conveyed this analysis to Mr. Sanford.” Attorney Schieber further advises that Sanford has instructed her to move to dismiss the appeal and request an extension to file a postconviction motion concerning the circuit court’s imposition of the DNA surcharge. Attorney Schieber asks that we extend her deadline for filing a postconviction motion to November 8, 2013. Because a no-merit report is only appropriate if counsel is convinced that an appeal would be wholly frivolous, *McCoy v. Court of Appeals*, 486 U.S. 429, 437 (1988), this court will grant the motion.

Therefore,

IT IS ORDERED that the no-merit report in appeal No. 2013AP723-CRNM is rejected and the appeal is dismissed without prejudice.

IT IS FURTHER ORDERED that the deadline for Assistant State Public Defender Hannah B. Schieber to file a postconviction motion on Sanford's behalf is extended November 8, 2013. *See* WIS. STAT. RULE 809.82(2)(a).

Diane M. Fremgen
Clerk of Court of Appeals